

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 01-0092**  
**CORPORATE INCOME TAX**

**FOR TAX PERIODS: Fiscal Year Ending March 31, 1997**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**Issue**

**1. Gross Income Tax:** Special Corporation Eligibility

**Authority:** IC 6-2.1-3-24.5 9 (a), IC 6-2.1-3-24.5 9 (b), 26 USCA 1361 (b), 26 USCA 1504 (a).

The taxpayer protests the denial of its special corporation eligibility.

**Statement of Facts**

The taxpayer is in the business of selling auto paint and supplies to auto dealers and body shops. The taxpayer had warehouses in Indianapolis and Evansville. In an audit, the Indiana Department of Revenue (department) denied the corporation its special corporation eligibility and assessed gross income tax, interest and penalties on the income from sales from the Indiana warehouses to Indiana businesses. The taxpayer protested the assessment. Since the taxpayer did not appear for the hearing, the determination is based upon a review of the documentation in the file. Further facts will be provided as necessary.

**1. Gross Income Tax:** Special Corporation Eligibility

### **Discussion**

An Indiana corporation that qualifies as a special corporation for federal purposes also qualifies as a special corporation in Indiana. IC 6-2.1-3-24.5 9 (a). Any Indiana corporation qualified to file as a special corporation is exempt from the Indiana gross income tax. IC 6-2.1-3-24.5 9 (b).

Prior to January 1, 1997, 26 USCA 1361 (b) stated that a corporation did not qualify for special corporation status if it was a member of an affiliated group as determined under 26 USCA 1504. The taxpayer's federal return indicated that the taxpayer corporation made loans to a subsidiary. The taxpayer corporation was part of an affiliated group for the first twenty eight days of the fiscal year ending March 31, 1997. Pursuant to 26 USCA 1504 (a), a corporation's ownership of at least eighty per cent (80%) of the value and the voting power of another corporation's stock constituted affiliation unless the subsidiary had no gross income. Since the corporate taxpayer was part of an affiliated group during 1996, the taxpayer corporation did not qualify as a special corporation and did not qualify for the special corporation exemption from gross income tax. Therefore, the department properly assessed gross income tax, interest and penalty against the taxpayer.

### **Finding**

The taxpayer's protest is denied.